IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

WP(C).No. 5878 of 2007(Y)

PETITIONER:

P.RADHAMONEY AMMA, W/O.C.S.PANICKER, KUMBAZHETHU HOUSE, KIDANGANNOOR P.O., MEZHUVELI, PATHANAMTHITTA (UPPER PRIMARY SCHOOL ASSISTANT, R.R.UPPER PRIMARY SCHOOL, ULLANNOOR).

BY ADV. SRI.S.SUBHASH CHAND
SRI.JOSE P.GEORGE

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF GENERAL EDUCATION, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION, OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.

3. THE DISTRICT EDUCATIONLA OFFICER, OFFICE OF THE DISTRICT EDUCATIONAL OFFICER, THIRUVALLA.

4. THE ASSISTANT EDUCATIONAL OFFICER, OFFICE OF THE ASSISTANT EDUCATIONAL OFFICER, ARANMULA.

5. MANAGER, RR UPPER PRIMARY SCHOOL,
ULLANNOOR.

6. JACOB CHERIYAN, MUSARIETH,
ULLANNOOR P.O., KULANADA, PATHANAMTHITTA.

7. THE DEPUTY DIRECTOR OF EDUCATION,
OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION,
PATHANAMTHITTA AT THIRUVALLA.

R1 TO R4 & R7 BY GOVERNMENT PLEADER (SHRI A. J. VARGHESE)

R5 BY ADV. SRI.M.S.UNNIKRISHNAN
SMT.S.KARTHIKA
SRI.M.R.ANISON
SRI.T.R.RAJESH
SMT.GEETHA PILLAI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 5878 OF 2007 Y

Dated this the 13th March, 2007

JUDGMENT

Complaint of petitioner is that though it was found by the Authority that the petitioner is the eligible person to be appointed as Headmistress and the Writ Petition filed by the Manager as also the concerned teacher who was appointed in derogation of petitioner's right, was dismissed, the Manager did not comply with the order of the Authority to appoint the petitioner as per Ext.P3 Order.

2. Heard the learned counsel appearing for the petitioner and the learned counsel for fifth respondent Manager, besides the learned Government Pleader. Counsel for fifth respondent would submit that a Writ Appeal has been preferred. It is submitted by counsel for petitioner that though the Writ Appeal has been admitted, the Division Bench made it clear that there is no interim order and it is open to the respondent Authority to

enforce the Government Order. In Ext.P3, the Government upheld the right of the petitioner for promotion as Headmistress with effect from 1.4.2004 and directed the Manager to promote the petitioner as Headmistress with effect from 1.4.2004 with monetary benefit from the date of her joining duty as Headmistress. Learned counsel for the Manager produced an order initially appointing the petitioner as Teacher-In-Charge. But, it was submitted by the petitioner that it was not in compliance with the order, as it directs the appointment of the petitioner as Headmistress.

2. Today, when the matter came up, learned counsel for the fifth respondent Manager submits that the petitioner has been appointed as Headmistress. Counsel for petitioner pointed out that Ext.P3 order directs appointment of the petitioner as Headmistress notionally with effect from 1.4.2004. In such circumstances, the Writ Petition is disposed of directing the second respondent, Director of Public Instruction, to consider

and take a decision on Ext.P7 in accordance with law, with notice to petitioner and the fifth respondent Manager, within a period of six weeks from the date of receipt of a copy of this Judgment.

K. M. JOSEPH, JUDGE

kbk.